

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 12, 2001

IN RE:

CHAMPION CARPET SPECIALIST

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**DOCKET NO.
01-00347**

ORDER APPROVING SETTLEMENT AGREEMENT

This matter came before the Tennessee Regulatory Authority (“Authority” or “TRA”) at a regularly scheduled Authority Conference held on May 1, 2001, for consideration of a proposed Settlement Agreement between the Consumer Services Division of the TRA (the “CSD”) and Scott Hinson and Dale Hinson d/b/a Champion Carpet Specialist (“Champion Carpet Specialist”) for violations of the Tennessee Do-Not-Call Telephone Sales Solicitation statutes, Tenn. Code Ann. § 65-4-401 *et seq.* The proposed Settlement Agreement is attached hereto as Exhibit A.

Tenn. Code Ann. § 65-4-404, and Tenn. Comp. R. & Regs. 1220-4-11-.07(1) prohibit persons and entities from knowingly making or causing to be made telephone sales solicitation calls to any residential subscribers in this state who have given timely and proper notice to the Authority of their objection to receiving telephone solicitations. Tenn. Code Ann. § 65-4-405(f) authorizes the Authority to initiate proceedings relative to violations of the Do-Not-Call statutes and the TRA rules and regulations (Tenn. Comp. R. & Regs. 1220-4-11-.01 *et seq.*) promulgated pursuant to the Do-Not-Call statutes. “Such proceedings may include without limitation proceedings to issue a cease and desist order,

to issue an order imposing a civil penalty up to a maximum of two thousand dollars (\$2,000) for each knowing violation and to seek additional relief in any court of competent jurisdiction.” Tenn. Code Ann. § 65-4-405(f).

Between January 4, 2001 and March 28, 2001, the CSD received nine (9) separate complaints against Champion Carpet Specialist from Tennessee consumers whose residential telephone numbers were properly and timely registered on the Tennessee Do-Not-Call Register. During the investigation of these complaints, the CSD determined that Champion Carpet Specialist had engaged in the solicitation of Tennessee residential telephone subscribers without registering as a telephone solicitor and obtaining the Tennessee Do-Not-Call Register, in violation of Tenn. Code Ann. § 65-4-401 and Tenn. Comp. Rules & Reg. 1220-4-11-.04(1).

The proposed Settlement Agreement was negotiated as the result of the CSD’s investigation into the complaints against Champion Carpet Specialist. In negotiating the terms and conditions of this Settlement Agreement, the CSD took into consideration Tenn. Code Ann. § 65-4-116(b), which provides:

In determining the amount of the penalty, the appropriateness of the penalty to the size of the business of the person, firm or corporation charged, the gravity of the violation and the good faith of the person, firm or corporation charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of the penalty, when finally determined, may be deducted from any sums owing by the state to the person, firm or corporation charged or may be recovered in a civil action in the courts of this state.

Champion Carpet Specialist is a small family-owned and operated business located in Cordova, Tennessee and has no known history of violating the statutes and rules enforceable by the Authority. The CSD’s investigation revealed that the nine (9) solicitations took place over a short period of time and that Champion Carpet Specialist has

not engaged in a pattern of continuing violations of Tenn. Code Ann. § 65-4-401 *et seq.* Upon receiving notice of the alleged violations, Champion Carpet Specialist cooperated fully with the CSD's investigation of the above mentioned complaints. Further, Champion Carpet Specialist acted expeditiously to remedy the problem by ceasing all telemarketing activity in Tennessee and by registering as a telephone solicitor and obtaining the Do-Not-Call register from the Authority as required by Tenn. Comp. Rules & Reg. 1220-4-11-.04(1).

As a part of this Settlement Agreement, Champion Carpet Specialist agrees to implement measures, as outlined in Exhibit A, to prevent similar occurrences in the future. In addition, Champion Carpet Specialist will pay to the Authority the amount of two thousand dollars (\$2,000) within thirty (30) days of the date of the Authority's approval of the Settlement Agreement.

A representative of Champion Carpet Specialist appeared at the Authority Conference on May 1, 2001. Following a discussion with the parties and a review of the Settlement Agreement, the Directors voted unanimously to accept and approve the Settlement Agreement.

IT IS THEREFORE ORDERED THAT:


1. The Settlement Agreement, attached hereto as Exhibit A, is accepted and approved and is incorporated into this Order as if fully rewritten herein.
2. The amount of two thousand dollars (\$2,000) shall be paid by Champion Carpet Specialist into the Public Utilities Account of the TRA no later than May 31, 2001, thirty (30) days from the date of the Authority's approval of the Settlement Agreement.¹


¹ Champion Carpet Specialist paid the total sum of \$2,000 into the Public Utilities Account of the TRA on May 31, 2001.

3. Upon payment of the amount of two thousand dollars (\$2,000), Champion Carpet Specialist is excused from further proceedings in this matter, provided that, in the event of any failure on the part of Champion Carpet Specialist to comply with the terms and conditions of the Settlement Agreement, the Authority reserves the right to re-open this docket for the purpose of securing compliance and enforcing the Settlement Agreement.

4. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen (15) days from the date of this Order.


Sara Kyle, Chairman


H. Lynn Greer, Jr., Director


Melvin J. Malone, Director

ATTEST:


K. David Waddell, Executive Secretary

THE TENNESSEE REGULATORY AUTHORITY

AT NASHVILLE, TENNESSEE

RECEIVED
CONSUMER SERVICES DIVISION

APR 16 2001

TN REGULATORY AUTHORITY

IN RE:

ALLEGED VIOLATIONS OF Tenn. Code Ann.
§65-4-401 *et seq.*, DO-NOT-CALL SALES
SOLICITATION LAW, AND RULES OF
TENNESSEE REGULATORY AUTHORITY,
CHAPTER 1220-4-11-.01 *et seq.*, BY:

SCOTT HINSON AND DALE HINSON
D/B/A CHAMPION CARPET SPECIALIST
8547 MACON ROAD
CORDOVA, TN 38018

DO NOT CALL
PROGRAM
FILE NOS.

01-00001
01-00047
01-00074
01-00119
01-00155
01-00179
01-00190
01-00197
01-00199

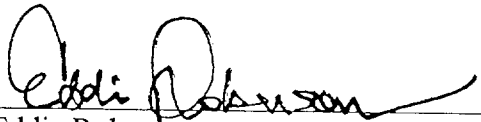
SETTLEMENT AGREEMENT

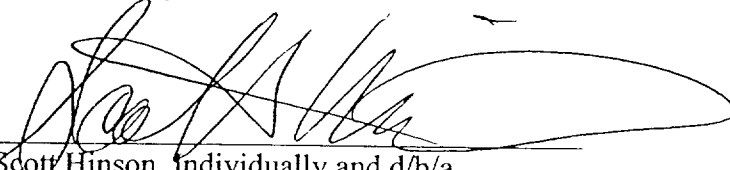

This Settlement Agreement has been entered into between the Consumer Services Division ("CSD") of the Tennessee Regulatory Authority ("TRA") and Scott Hinson and Dale Hinson, D/B/A Champion Carpet Specialist, and is subject to the approval of the directors of the TRA. The subject of this Settlement Agreement is nine (9) separate complaints received by the CSD alleging that Scott and Dale Hinson, D/B/A Champion Carpet Specialist, violated the Tennessee Do-Not-Call Telephone Sales Solicitation law, T.C.A. § 65-4-404, and TRA Rules and Regulations 1220-4-11-.07, by making or causing to be made telephone sales solicitation calls to the residential telephone numbers of nine (9) individual Tennessee consumers whose residential telephone numbers were registered on the Tennessee Do-Not-Call Register.

In an effort to resolve these nine (9) complaints, represented by the file numbers above, the CSD and Champion Carpet Specialist agree to settle these complaints on the following terms, subject to approval by the directors of the TRA:



1. Scott Hinson and Dale Hinson admit that Champion Carpet Specialist was not registered as a solicitor as required by the Rule 1220-4-11-.04 of the Telephone Solicitations Regulations, and further admit that the nine (9) complaints against Champion Carpet Specialist are true and valid complaints.
2. Scott Hinson and Dale Hinson agree to immediately stop all telemarketing sales solicitation calls on behalf of their company, Champion Carpet Specialist, until their company is registered as a solicitor with the TRA.
3. Scott Hinson and Dale Hinson agree to immediately register Champion Carpet Specialist with the TRA and pay the five hundred dollars (\$500.00) registration fee.
4. Scott Hinson and Dale Hinson agree to pay a civil penalty in the amount of two thousand dollars (\$2,000.00) to the TRA within thirty (30) days after the directors of the TRA approve this Settlement Agreement.
5. Scott Hinson and Dale Hinson agree that at least one of them will appear in person at the TRA conference at which this Settlement Agreement will be considered for approval.
6. Scott Hinson and Dale Hinson agree to comply with all provisions of the Tennessee Do-Not-Call Telephone Sales Solicitation law and regulations.


Eddie Roberson
Chief, Consumer Services Division


Scott Hinson, Individually and d/b/a
Champion Carpet Specialist

Dale Hinson, Individually and d/b/a
Champion Carpet Specialist